

Sr. No. 11 and not on the basis of new seniority list issued after merger and respondent illegally ignored him for consideration of promotion.

3. Perusal of order dated 19.04.2024 reveals that in it, it was clearly discussed that seniority list of the year 2012 was not properly maintained and employees who were appointed subsequently shown senior to the employees who were appointed earlier, therefore, same could not be relied upon for the purpose of promotion as final seniority list. Most important factor is that on 18.10.2022, learned counsel for the petitioner requested this Tribunal for issuance of direction to respondents to consider the petitioner for promotion under the rules in the upcoming DPC. On the basis of which direction was issued for consideration of the petitioner in the forth coming meeting of DPC under the rules, which means that rules framed by the department for promotion and was in field on 18.10.2022 in accordance with which seniority is one of the key factor and seniority list issued after merger was accordance with the prevailing rules wherein petitioner was placed at low seniority position.

4. In my humble view, no element of fraud, misrepresentation and concealment of facts are found and this Tribunal had already held that petitioner will be considered for promotion on his own turn, therefore, instant petition is dismissed. Consign.

5. *Pronounced in open Court in Peshawar and given under my hand and seal of the Tribunal on this 21<sup>st</sup> day of October, 2024.*

  
(RASHIDA BANO)  
Member (J)

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

12(2) CPC Petition No. 886/2024 in E.P No.45/2023

Mr. Saleem Khan S/O Noor Ali R/O Ghalanai Miangan Haleemzai  
District Mohmand, Lab Attendent Government High School,  
Ghalanai. .... (Petitioner)

VERSUS

1. Secretary, Elementary & Secondary Education, Peshawar.
2. Director, Elementary & Secondary Education, Peshawar.
3. District Education Officer, District Mohmand,

.... (Respondents)

Nazish Muzaffar

&

Arbab Saif Ul Kamal

Advocate

... For petitioner

Mr. Asif Masood Ali Shah

Deputy District Attorney

... For respondents

Date of Institution.....09.08.2024

Date of Hearing.....21.10.2024

Date of Decision.....21.10.2024

JUDGMENT

**RASHIDA BANO, MEMBER (J):**The instant petition is filed under section 12(2) CPC 1908 on behalf of petitioner for setting aside judgment/order dated 19.04.2024 passed in Execution Petition bearing No. 45/2023 which was obtained through fraud, misrepresentation and concealment of material facts from the court, alongwith Section 7 of the Service Tribunal Act, 1974.

2. Instant 12(2) petition was filed by the petitioner against the order dated 19.04.2024 vide which execution petition file by the respondent was consigned to record room being complied with. Main grounds taken by the petitioner in the instant petition is that he was eligible/entitled to be promoted on the basis of seniority list for the year 2012 wherein his name was placed at